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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2012-111

12 **PHEMIA CONTAOI**
2694 Armstrong Avenue
13 Clovis, CA 93611
14 Registered Nurse License No. 486035

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 2. On or about January 31, 1993, the Board issued Registered Nurse License Number
22 486035 to Phemia Contaoi ("Respondent"). Respondent's registered nurse license was in full
23 force and effect at all times relevant to the charges brought herein and will expire on October 31,
24 2012, unless renewed.

25 **STATUTORY AND REGULATORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee for any reason provided in Article 3 (commencing with
28 section 2750) of the Nursing Practice Act.

4. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions . . .

5. California Code of Regulations, title 16, section (“Regulation”) 1442 states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

6. Regulation 1443 states:

As used in Section 2761 of the code, “incompetence” means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DEFINITIONS

8. "Coumadin", a brand of warfarin sodium, is an anticoagulant (blood thinner) used in the prevention or treatment of venous thrombosis, pulmonary embolism, atrial fibrillation, and myocardial infarction. Coumadin interferes with blood clotting by lowering the liver's production of certain clotting factors.

9. Prothrombin time (PT) is a blood test used to assess the clotting ability of blood; i.e., how long it takes for blood to clot. The PT test is also used to monitor the condition of patients who are taking warfarin.

10. International Normalized Ratio (INR) is a laboratory test used to determine the comparative rating of a patient's PT ratio, used as a standard for monitoring the effects of warfarin.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. At all times relevant herein, Respondent was employed as a registered nurse for Clovis Community Medical Center located in Clovis, California.

12. On or about September 26, 2008, patient D. L. was admitted to the medical center with acute shortness of breath due to chronic obstructive pulmonary disease, rule out congestive heart failure, rule out pneumonia.

13. On or about September 27, 2008, Dr. S. S. ordered Coumadin 5 mg for the patient to be given by mouth every "HS" (hour of sleep or 2100 hours as set forth in the medical center's policies and procedures). Between September 27 and October 8, 2008, the Coumadin was administered by various nurses as ordered. D.L. subsequently died on October 9, 2008 from an intracerebral hemorrhage.

14. On or about September 30, 2008, at 2100 hours, and October 1, 2008, at 2100 hours, Respondent administered Coumadin 5 mg to the patient.

15. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about September 30, 2008, and October 1, 2008, Respondent committed acts constituting gross negligence in her care of patient D. L. as defined in Regulation 1442, as follows: Respondent administered Coumadin to the patient without assessing lab values, PT and INR, to determine if the patient was below, above, or within the target therapeutic range and/or failed to question why PT and INR laboratory studies were not present in the patient's chart and/or ordered by the patient's physician.

SECOND CAUSE FOR DISCIPLINE

(Incompetence)

16. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 11 through 14 above.

17. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about September 30, 2008, and October 1, 2008, Respondent committed acts constituting incompetence in her care of patient D. L. as defined in Regulation 1443, as follows: Respondent administered Coumadin to the patient without assessing lab values, PT and INR, to determine if the patient was below, above, or within the target therapeutic range, and/or failed to question why PT and INR laboratory studies were not present in the patient's chart and/or ordered by the patient's physician even though Respondent knew of the bleeding risks inherent in Coumadin administration and the standard or need for monitoring PT and INR.

THIRD CAUSE FOR DISCIPLINE

Unprofessional Conduct

18. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 11 through 14 above.

19. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), in that on or about September 30, 2008, and October 1, 2008, Respondent committed acts constituting unprofessional conduct, as set forth in paragraphs 15 and 17 above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 486035, issued to Phemia Contaoi;
2. Ordering Phemia Contaoi to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED:

August 15, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN

Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant